

EXTRADITION

Convention signed at Washington March 23, 1868

Senate advice and consent to ratification, with an amendment,¹ June 17, 1868

Ratified by the President of the United States, with an amendment,¹ June 22, 1868

Ratified by Italy July 19, 1868

Ratifications exchanged at Washington September 17, 1868

Entered into force September 17, 1868.

Proclaimed by the President of the United States September 30, 1868

Supplemented by additional article of January 21, 1869;² convention of June 11, 1884;³ and agreement of April 16 and 17, 1946⁴

Revived (after World War II) February 6, 1948⁵ pursuant to article 44 of treaty of peace signed at Paris February 10, 1947⁶

15 Stat. 629; Treaty Series 174

CONVENTION FOR THE SURRENDER OF CRIMINALS BETWEEN THE UNITED STATES OF AMERICA AND HIS MAJESTY THE KING OF ITALY

The United States of America and His Majesty the King of Italy, having judged it expedient, with a view to the better administration of justice, and to the prevention of crimes within their respective territories and jurisdiction, that persons convicted of or charged with the crimes hereinafter specified, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a convention for that purpose, and have appointed as their plenipotentiaries: the President of the United States, William H. Seward, Secretary of State; His Majesty the King of Italy, the Commander Marcello Cerruti, envoy extraordinary and minister plenipotentiary; who, after reciprocal communication of their full powers, found in good and due form, have agreed upon the following articles, to wit:

¹ The U.S. amendment called for deletion in art. II, para. 6, of the words "of all things being titles on instruments of credit" after the phrase "and in general," and the substitution thereof of "of any title and instrument of credit whatsoever."

The text printed here is the amended text as proclaimed by the President.

² TS 176, *post*, p. 81.

³ TS 181, *post*, p. 102.

⁴ TIAS 1699, *post*, p. 192.

⁵ *Department of State Bulletin*, Feb. 22, 1948, p. 248.

⁶ TIAS 1648, *ante*, vol. 4, p. 325.

ARTICLE I⁷

The Government of the United States and the Government of Italy mutually agree to deliver up persons who, having been convicted of or charged with the crimes specified in the following article, committed within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other: *Provided*, That this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial, if the crime had been there committed.

ARTICLE II

Persons shall be delivered up who shall have been convicted of, or be charged, according to the provisions of this convention, with any of the following crimes:

1. Murder, comprehending the crimes designated in the Italian penal code, by the terms of parricide, assassination, poisoning, and infanticide.

2. The attempt to commit murder.

3. The crimes of rape, arson, piracy, and mutiny on board a ship, whenever the crew, or part thereof, by fraud or violence against the commander, have taken possession of the vessel.

4. The crime of burglary, defined to be the action of breaking and entering by night into the house of another with the intent to commit felony; and the crime of robbery, defined to be the action of feloniously and forcibly taking from the person of another goods or money, by violence or putting him in fear.

5. The crime of forgery, by which is understood the utterance of forged papers, the counterfeiting of public, sovereign, or government acts.

6. The fabrication or circulation of counterfeit money, either coin or paper, of public bonds, bank notes, and obligations, and in general of any title and instrument of credit whatsoever, the counterfeiting of seals, dies, stamps, and marks of state and public administrations, and the utterance thereof.

7. The embezzlement of public moneys committed within the jurisdiction of either party, by public officers or depositors.

8. Embezzlement by any person or persons hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.⁸

⁷ For an understanding relating to art. I, see agreement of Apr. 16 and 17, 1946 (TIAS 1699), *post*, p. 192.

⁸ For an amendment of art. II, para. 8, see additional article signed at Washington Jan. 21, 1869 (TS 176), *post*, p. 81. For an addition to the list of crimes, see supplementary convention of June 11, 1884 (TS 181), *post*, p. 102.

ARTICLE III

The provisions of this treaty shall not apply to any crime or offense of a political character, and the person or persons delivered up for the crimes enumerated in the preceding article shall in no case be tried for any ordinary crime, committed previously to that for which his or their surrender is asked.

ARTICLE IV

If the person whose surrender may be claimed, pursuant to the stipulations of the present treaty, shall have been arrested for the commission of offenses in the country where he has sought an asylum, or shall have been convicted thereof, his extradition may be deferred until he shall have been acquitted, or have served the term of imprisonment to which he may have been sentenced.

ARTICLE V

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the contracting parties, or in the event of the absence of these from the country, or its seat of government, they may be made by superior consular officers. If the person whose extradition may be asked for shall have been convicted of a crime, a copy of the sentence of the court in which he may have been convicted, authenticated under its seal, and an attestation of the official character of the judge by the proper executive authority, and of the latter by the minister or consul of the United States or of Italy, respectively, shall accompany the requisition. When, however, the fugitive shall have been merely charged with crime, a duly authenticated copy of the warrant for his arrest in the country where the crime may have been committed, or of the depositions upon which such warrant may have been issued, must accompany the requisition as aforesaid. The President of the United States, or the proper executive authority in Italy, may then issue a warrant for the apprehension of the fugitive, in order that he may be brought before the proper judicial authority for examination. If it should then be decided that, according to law and the evidence, the extradition is due pursuant to the treaty, the fugitive may be given up according to the forms prescribed in such cases.⁹

ARTICLE VI

The expenses of the arrest, detention, and transportation of the persons claimed, shall be paid by the government in whose name the requisition has been made.

ARTICLE VII

This convention shall continue in force during five (5) years from the day of exchange of ratification, but if neither party shall have given to the other

⁹ For an addition to art. V, see *ibid.*

six (6) months' previous notice of its intention to terminate the same, the convention shall remain in force five years longer, and so on.

The present convention shall be ratified, and the ratifications exchanged at Washington, within six (6) months, and sooner, if possible.

In witness whereof, the respective plenipotentiaries have signed the present convention in duplicate, and have thereunto affixed their seals.

Done at Washington, the twenty-third day of March, A.D. one thousand eight hundred and sixty-eight, and of the Independence of the United States the ninety-second.

WM. H. SEWARD	[SEAL]
M. CERRUTI	[SEAL]